

**IN THE COURT OF APPEALS OF IOWA**

No. 9-046 / 08-0770  
Filed March 11, 2009

**ALTA VISTA PROPERTIES, L.C.,**  
Plaintiff-Appellee,

**vs.**

**PAUL S. KURTZ REVOCABLE TRUST,  
PAUL S. KURTZ, as Trustee, SHIRLEY J.  
KURTZ REVOCABLE TRUST,  
THE MURPHY FAMILY TRUST,  
JAMES D. MURPHY and MARILYN M.  
BENTRUDE, as Trustees, and  
PAUL S. KURTZ, Individually,**  
Defendants-Appellants.

---

**PAUL S. KURTZ REVOCABLE TRUST,  
PAUL S. KURTZ, as Trustee, SHIRLEY J.  
KURTZ REVOCABLE TRUST, and PAUL S.  
KURTZ, Individually,**  
Cross-Petitioners/Appellants,

**vs.**

**ARMOR COATINGS, INC.,**  
Cross-Defendant/Appellee.

---

Appeal from the Iowa District Court for Black Hawk County, Todd A. Geer,  
Judge.

Defendants appeal from the findings of the district court in this breach of  
contract action. **AFFIRMED.**

Kevin D. Engles of Correll, Sheerer, Benson, Engles, Galles & Demro, P.L.C., Cedar Falls, for appellants.

John J. Rausch of Rausch Law Firm, P.C., Waterloo, for appellee Alta Vista.

Thomas C. Verhulst of Gallagher, Langlas, Gallagher, P.C., Waterloo, for appellee Armor Coatings.

Considered by Sackett, C.J., and Vaitheswaran and Potterfield, JJ.

**POTTERFIELD, J.**

Defendants (Paul S. Kurtz Revocable Trust, Paul S. Kurtz as Trustee, Shirley J. Kurtz Revocable Trust, and Paul S. Kurtz, individually) owned a building which was sold to Alta Vista Properties, L.C. in 2003. Alta Vista brought this breach of contract action alleging numerous counts of fraud, negligent misrepresentation and failure to disclose. Defendants filed a cross-claim against Armor Coatings, asserting work done by Armor Coatings was defective.

The district court, sitting without a jury, found in favor of Alta Vista, specifically finding Paul Kurtz was not credible, had affirmatively misled the buyer, and failed to disclose known defects in the building's roofing system. The district court also specifically found that Armor Coatings performed the work under its contract with Kurtz as specified and dismissed the cross-claim. On appeal, defendants assert there is insufficient evidence to support the district court's finding that "Armor Coatings performed the work exactly as specified."

We have carefully reviewed the record and conclude the trial court's finding is supported by substantial evidence, see Iowa R. App. P. 6.14(6)(a), and we therefore affirm. See Iowa Ct. R. 21.29(1)(b), (e).

Submitted with this appeal is appellee Alta Vista Properties' motion that Paul S. Kurtz be required to pay its appellate attorney fees pursuant to the Assignment Agreement between sellers and buyer. The motion is denied. This appeal concerned the district court's finding as to the cross-claim only and does not fall within the terms of the Assignment Agreement between sellers and buyer.

**AFFIRMED.**